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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/758,243	01/12/2001	Karl Steiner	P20400	7866

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GREENBLUM & BERNSTEIN, P.L.C.  
1941 ROLAND CLARKE PLACE  
RESTON, VA 20191

EXAMINER

FORTUNA, JOSE A

ART UNIT	PAPER NUMBER
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1731

7

DATE MAILED: 08/21/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/758,243

Applicant(s)

STEINER ET AL.

Examiner

José A Fortuna

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 11 July 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) 24-40 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2, 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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## DETAILED ACTION

### *Election/Restriction*

1. Applicant's election with traverse of group I, claims 1-20 in Paper No. 5 is acknowledged. The traversal is on the ground(s) that there is no serious burden if the all the groups are examined together. While the examiner agrees that there is no serious burden in examining groups I and II together, the search and the conceptual idea for group III is different than for the other two groups. Even though there may be an overlapping range of the search, group III defines a different inventive concept which search deviate completely from the search of the other groups, e.g., group III requires searching in the press configuration area which is not required for the other two, classes 162 and 100.

The requirement is still deemed proper and is therefore made FINAL.

### *Claim Rejections - 35 U.S.C. § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-2, 4-13 and 18-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Kade, US Patent No. 5,851,358.

Kade teaches a draining device having two interconnected chambers. The first chamber open to the atmosphere, (ambient pressure) and the second chamber connected to a source of

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vacuum, see figures 3-5. Kade teaches also the use of the drainage device in a papermaking machine; an aperture connecting the chambers, figure 3, a pipe between parts no. **50** and **46**; in figure 5 Kade shows the pluralities of pipes and segments in the cross-machine direction of the roll. From the figures it can be seen that the velocity has component in the machine and cross machine direction, i.e., the water falls at an angle with respect to the roll, so that  $V_{cd} = V \cos(\theta)$  and  $V_{MD} = V \sin(\theta)$ .

4. Claims 1-2, 4-13 and 18-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Poikolainen et al.

Poikolainen et al. teach a draining device having two interconnected chambers. The first chamber operating at ambient pressure and the second chamber connected to a source of vacuum, see figures 2-4. Poikolainen et al. teach also the use of the drainage device in a papermaking machine and an aperture **29** connecting the chambers, figures 2-4. Poikolainen et al. show the pluralities of pipes and segments in the cross-machine direction of the wire and/or roll, see figures 2D, 3D and 4D. From the figures it can be seen that the velocity has component in the machine and cross machine direction. Poikolainen et al. show the throttling device(s) **30** and **36**, see figures 3-4.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Hennessy, US Patent No. 5,487,193.

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Hennessy teaches a drainage device having two chambers **44** and **50** connected to each other, see figure 1 and abstract. Hennessy teaches also that the second chamber is connected to a source of vacuum **42**, see abstract and figure 1

***Claim Rejections - 35 U.S.C. § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Column.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor

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and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103© and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 3,14-17, 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kade or Poikolainen et al.

Kade and Poikolainen et al. has been previously discussed, see above. Neither Kade nor Poikolainen et al. explicitly teach the association of the drainage device with a felted press nor the particulars of the pipes and the vacuum. However, the use of Savealls taught by the reference in a felted press would have been obvious to one of ordinary skill in the art since it has been held that “[W]here two equivalents are interchangeable for their desired function, substitution would have been obvious and thus, express suggestion of desirability of the substitution of one for the other is unnecessary.” *In re Fout* 675 F. 2d 297, 213 USPQ 532 (CCPA 1982); *In re Siebentritt*, 372 F.2d 566, 152 USPQ 618 (CCPA 1967).

As to the dimensions of the pipes and vacuum in the chamber including the use of a volumetric pump, the optimization of result effective variables would haven obvious to one of ordinary skill in the art, absent a showing of unexpected results.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure in the art of “Savealls in papermaking.”

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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to José Fortuna, whose telephone number is (703)305-7498. The examiner can normally be reached on Monday-Friday from 9:30 A.M. to 5:30 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven P. Griffin, can be reached on (703)308-1164. The fax number for this group is (703)305-7115.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703)308-0661.

When filing a FAX in group 1730, please indicate in the Header (upper right) "Official" for papers that are to be entered into the file, and "Unofficial" for draft documents and other communication with the PTO that are not for entry into the file of the application. This will expedite processing of your papers.

José A. Fortuna  
August 16, 2002

  
JOSE FORTUNA  
PRIMARY EXAMINER  
ART UNIT 1731